

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

**LAURIE M. IMHOFF, and ROBERT  
IMHOFF,**

Plaintiffs,

v.

**ETHICON, Inc., and JOHNSON &  
JOHNSON,**

Defendants.

No. 3:20-cv-00380-AR

OPINION AND ORDER

**MOSMAN, J.,**

On July 15, 2022, Magistrate Judge Jeffrey Armistead issued his Findings and Recommendation (“F&R”) [ECF 91], recommending that Defendants’ Motion for Partial Summary Judgment [ECF 81] should be GRANTED IN PART and DENIED IN PART. Defendants filed objections [ECF 94], and Plaintiffs responded [ECF 95].

**DISCUSSION**

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court


is not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

### CONCLUSION

Upon review, I agree with Judge Armistead's recommendation, and I ADOPT the F&R [ECF 91] as my own opinion. I GRANT IN PART and DENY IN PART Defendants' Motion for Partial Summary Judgment [ECF 81]. I GRANT Defendants' motion and enter summary judgment with respect to Count VI (based on omissions), Count VII (based on omissions), and Count IX. I DENY Defendants' motion with respect to Count I, Count V, Count XVII, and Count XVIII (while noting that Count XVII and Count XVIII are not independent causes of action, as discussed in the F&R). I also DISMISS with prejudice Count II, Count IV, Count VIII, Count XI, Count XII, Count XIII, and Count XV per the Parties' Stipulation [ECF 71].

IT IS SO ORDERED.

DATED this 14<sup>th</sup> day of September, 2022.

  
MICHAEL W. MOSMAN  
Senior United States District Judge